

Attorney's Docket No. USO 4571.2

**DECLARATION AND POWER OF ATTORNEY**

**REGULAR OR DESIGN APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

FC101 AS A TREATMENT FOR CANCER

the specification of which:

(check one)

- is attached hereto
- was filed on August 2, 2002 as Application Serial No. 10/211,466, and was amended on \_\_\_\_\_.
- was described and claimed in PCT International Application No. \_\_\_\_\_, filed on \_\_\_\_\_ and as amended under PCT Article 19 on \_\_\_\_\_, if any.

**ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR**

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations §1.56.

**PRIORITY CLAIM**

I hereby claim foreign priority benefits under Title 35, United States Code, §119 (a) - (d) or §365(b) of any foreign application for patent or inventor's certificate, or §365(a) of any PCT application which designates at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

**Priority Claimed**

<u>(Number)</u>	<u>(Country)</u>	<u>(Day/Month/Year Filed)</u>
<u>(Number)</u>	<u>(Country)</u>	<u>(Day/Month/Year Filed)</u>
<u>(Number)</u>	<u>(Country)</u>	<u>(Day/Month/Year Filed)</u>

**Priority Not Claimed**

**ANY FOREIGN APPLICATION(S), ON THE SAME SUBJECT MATTER WHICH HAS A FILING DATE EARLIER THAN THE EARLIEST APPLICATION FROM WHICH PRIORITY IS CLAIMED**

<u>(Number)</u>	<u>(Country)</u>	<u>(Day/Month/Year Filed)</u>
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**CLAIM FOR BENEFIT OF PROVISIONAL APPLICATION(S)**

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below.

<u>(Application Number)</u>	<u>(Filing Date)</u>
<u>(Application Number)</u>	<u>(Filing Date)</u>

**CLAIM FOR BENEFIT OF EARLIER U.S. APPLICATION(S)  
UNDER 35 U.S.C. 120**

(complete this part only if this is a divisional,  
continuation or CIP application)

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s), or §365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

<u>09/821,196</u> (Serial No.)	<u>29/03/2001</u> (Filing Date)	(Status)
<u>09/281,577</u> (Serial No.)	<u>30/03/1999</u> (Filing Date)	(Status)
<u>08/975,813</u> (Serial No.)	<u>21/11/1997</u> (Filing Date)	(Status)

## **POWER OF ATTORNEY**

I hereby appoint the following attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: Donald G. Leavitt (17,626), John K. Roedel, Jr. (25,914), Michael E. Godar (28,416), Edward J. Hejlek (31,525), William E. Lahey (26,757), Richard G. Heywood (18,224), Frank R. Agovino (27,416), Kurt F. James (33,716), Paul I. J. Fleischut (35,513), Vincent M. Keil (36,838), Robert M. Evans, Jr. (36,794), Robert M. Bain (36,736), Kathleen M. Petrillo (35,076), Richard L. Bridge (40,529), Christopher M. Goff (41,785), Derick E. Allen (43,468), Michael G. Munsell (43,820), Anthony R. Kinney (44,834), Brian P. Klein (44,837), Donald W. Tuegel (45,424), Steven M. Ritchey (46,321), Kathryn J. Doty (40,593), Laura R. Polcyn (47,000), James J. Barta, Jr. (47,409), James E. Davis (47,516), Richard A. Schuth (47,929), Jennifer E. Hoékel (48,330), Timothy B. McBride (47,781), David L. Howard (41,502), Andrew N. Claerbout (50,202), Thomas F. Maloney (50,156), James D. Harper (P-51,781), all of the law firm of SENNIGER, POWERS, LEAVITT & ROEDEL, One Metropolitan Square, 16th Floor, St. Louis, Missouri 63102.

Send Correspondence To: \_\_\_\_\_ Direct Telephone Calls To: \_\_\_\_\_

Customer Number: 000321

Timothy B. McBride  
(314) 231-5400

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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Full name of sole or first inventor Roy E. Wuthier

Inventor's signature Roy E. Wuthier Date 11/01/02

Residence Columbia, SC Citizenship U.S.

Post Office address 730 South Main Street

Columbia, SC 29208

Full name of second joint inventor Daotai Nie

Second inventor's signature Daotai Nie Date 10/24/2002

Residence Grosse Pointe Farms, MI Citizenship China

Post Office address 152 Hillcrest Drive

Grosse Pointe Farms, MI 48236



UNITED STATES  
PATENT AND  
TRADEMARK OFFICE

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SENNIGER, POWERS, LEAVITT & ROEDEL  
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Under Secretary of Commerce For Intellectual Property and  
Director of the United States Patent and Trademark Office  
Washington, DC 20231  
*USO 4571.2*  
www.uspto.gov



\*102290702A\*

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

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RECORDATION DATE: 11/12/2002

REEL/FRAME: 013500/0313  
NUMBER OF PAGES: 5

BRIEF: ASSIGNMENT OF ASSIGNEE'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNEE:  
WUTHIER, ROY E.

DOC DATE: 10/24/2002

ASSIGNEE:  
NIE, DAOTAI

DOC DATE: 10/31/2002

ASSIGNEE:  
SOUTH CAROLINA, UNIVERSITY OF  
730 SOUTH MAIN STREET  
COLUMBIA, SOUTH CAROLINA 29208

SERIAL NUMBER: 10211466  
PATENT NUMBER:

FILING DATE: 08/02/2002 ✓  
ISSUE DATE:

ALLYSON PURNELL, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

*bmu*

11-22-2002

Form PTO-1595  
(Rev. 03/01)  
OMB No. 0651-0027 (exp. 5/31/2002)

Tab settings: → → → ↓

U. S. DEPARTMENT OF COMMERCE  
U.S. Patent and Trademark Office

102290702

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

## 1. Name of conveying party(ies):

Roy E. Wuthier  
Daotai Nie

11-12-02

Additional name(s) of conveying party(ies) attached?  Yes  No

## 2. Name and address of receiving party(ies)

Name: University of South Carolina

Internal Address:

Street Address: 730 South Main Street

## 3. Nature of conveyance:

- Assignment       Merger  
 Security Agreement       Change of Name  
 Other

Execution Date: 10/24/02 and 10/31/02

City: Columbia State: SC Zip: 29208

Additional name(s) & address(es) attached?  Yes  No

## 4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)  
10/211,466

B. Patent No.(s)

Additional number(s) attached  Yes  No

## 5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Timothy B. McBride

Internal Address:

Senniger, Powers, Leavitt &amp; Roedel

Street Address:

One Metropolitan Square, 16th Floor

City: St. Louis State: MO Zip: 63102

## 6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41). \$ 40.00

 Enclosed Authorized to be charged to deposit account

## 8. Deposit account number:

19-1345

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

## 9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Timothy B. McBride

Name of Person Signing

Signature

November 6, 2002

Date

11/21/2002 DBYRNE 00000207 10211466

Total number of pages including cover sheet, attachments, and document: 5

01 FC:8021

40.00

Mail documents to be recorded with required cover sheet information to:  
 Commissioner of Patent & Trademarks, Box Assignments  
 Washington, D.C. 20231

ASSIGNMENT

**WHEREAS**, We Roy E. Wuthier of Columbia, South Carolina and Daotai Nie of Grosse Pointe Farms, Michigan, have invented an improvement in FC101 AS A METHOD FOR TREATMENT OF CANCER (File USO 4571.2) and have executed an application for a United States patent based thereon Serial No. 10/211,466, filed August 2, 2002;

**AND, WHEREAS**, University of South Carolina of Columbia, South Carolina, (hereinafter referred to as "ASSIGNEE") is desirous of acquiring certain rights thereunder;

**NOW, THEREFORE**, for one dollar and other good and valuable consideration, receipt of all of which is hereby acknowledged, we have agreed to and do hereby sell, assign and transfer unto said ASSIGNEE the entire right, title and interest in and throughout the United States of America (including its territories and dependencies) and all countries foreign thereto in and to said invention, said United States application, any other United States applications (including provisional, non-provisional, divisional, continuing, or reissue applications) based in whole or in part on said United States application or in whole or in part on said invention, any foreign applications based in whole or in part on any of the aforesaid United States applications or in whole or in part on said invention, and any and all patents (including extensions thereof) of any country which have been or may be granted on any of the aforesaid applications or on said invention or any part thereof;

**TO BE HELD AND ENJOYED** by said ASSIGNEE, its successors and assigns, as fully and entirely as the same would have been held and enjoyed by us had no sale and assignment of said interest been made;

**AND We hereby authorize and request the Commissioner of Patents of the United States of America to issue any and all United States patents which may be granted upon said United States applications or any of them, or upon said invention or any part thereof, to said ASSIGNEE;**

**AND We hereby jointly and severally agree for ourselves and for our respective heirs, executors and administrators, to execute without further consideration any further lawful documents and any further assurances, and any provisional, non-provisional, divisional, continuing, reissue, or other applications for patents of any country, that may be deemed necessary by said ASSIGNEE fully to secure to said ASSIGNEE its interest as aforesaid in and to said invention or any part thereof, and in and to said several patents or any of them;**

**AND We hereby jointly and severally covenant for ourselves and our respective legal representatives that we have granted no right or license to make, use or sell said invention, to anyone except said ASSIGNEE, that prior to the execution of this deed our right, title and interest in said invention had not been otherwise encumbered, and that we have not executed and will not execute any instrument in conflict herewith.**

IN WITNESS WHEREOF, we have hereunto set our hands.

Roy E. Wuthier

Roy E. Wuthier

ACKNOWLEDGMENT

STATE OF South Carolina

COUNTY OF Richland)

On this 24<sup>th</sup> day of Oct, 2002, before me, a Notary Public, personally appeared Roy E. Wuthier to me known to be the person described in and who executed the foregoing assignment and acknowledged that he executed same as his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal  
the date and year last above written.

Virginia H. Rogers

Notary Public

My Commission Expires:

2-25-2009

Daotai Nie

Daotai Nie

ACKNOWLEDGMENT

STATE OF MICHIGAN )

)

COUNTY OF WAYNE )

On this 31 day of OCTOBER, 2002, before me, a Notary Public, personally appeared Daotai Nie to me known to be the person described, in and who executed, the foregoing assignment and acknowledged that he executed same as his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal and the date and year last above written.

J. H. Florin

Notary Public

J. H. FLORIN

Notary Public, Wayne County, MI

My Commission Expires 03/03/2003

My Commission Expires:

3-3-2003